

## § 47.5

(2) Delivery other than by mail to any responsible individual at, or leaving in a conspicuous place at, any such location; or

(3) Delivery to such party if an individual, to an officer or director of such party if a corporation, or to a member of such party if a partnership, at any location.

(d) *Proof of service.* Any of the following, in the possession of the Department, showing such service, shall be deemed to be accurate:

(1) A certified or registered mail receipt returned by the postal service with a signature, or a signed receipt returned by a private or commercial mail delivery service;

(2) An official record of the postal service;

(3) An entry on a docket record or a copy placed in a docket filed by the Hearing Clerk of the Department or by an employee of the Hearing Clerk in the ordinary course of business;

(4) A certificate of service, which need not be separate from and may be incorporated in the document or paper of which it certifies service, showing the method, place and date of service in writing and signed by an individual with personal knowledge thereof, *Provided*, That such certificate must be verified by oath or declaration under penalty of perjury if the individual certifying service is not a party to the proceeding in which such document or paper is served, an attorney or representative of record for such a party, or an official or employee of the United States or of a State or political subdivision thereof.

[56 FR 174, Jan. 3, 1991; 56 FR 5151, Feb. 8, 1991, as amended at 60 FR 8459, Feb. 14, 1995; 64 FR 38106, July 15, 1999]

### § 47.5 Scope and applicability of rules of practice.

Sections 47.6 through 47.25 shall be applicable to the procedure governing the filing and disposition of formal complaints in reparation proceedings. Sections 47.47 through 47.68 shall be applicable to the proceedings for determining whether a person is responsibly connected with a licensee under the Perishable Agricultural Commodities Act. Sections 47.1 through 47.5 and § 47.46 shall be applicable to all pro-

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ceedings under §§ 47.6 through 47.25. Sections 47.1 and 47.2, except for § 47.2 (i) through (r), shall be applicable to all proceedings under §§ 47.47 through 47.68. In addition, except to the extent that they are inconsistent with §§ 1.130 through 1.151 of this chapter, §§ 47.1 through 47.5 and 47.46 are also applicable to procedures governing the filing and disposition of formal complaints and other moving papers relating to administrative proceedings to enforce the Act pursuant to §§ 1.130 through 1.151 of this chapter.

[43 FR 30787, July 18, 1978, as amended at 60 FR 8459, Feb. 14, 1995]

### RULES APPLICABLE TO REPARATION PROCEEDINGS

#### § 47.6 Formal complaints.

(a) *Filing; contents; number of copies.*

(1) If the procedure provided in § 47.3(b) fails to effect an amicable or informal settlement, the person who filed the informal complaint may, if further proceedings are desired, file a formal complaint with the Fruit and Vegetable Programs. The formal complaint shall be filed within ninety days of notification of the opportunity to proceed formally. Failure to file a formal reparation complaint within the time prescribed shall result in the waiver of further proceedings on the claim alleged in the informal complaint.

(2) The formal complaint shall set forth the information and be accompanied by the papers indicated in § 47.3(a)(2) and (3), including a statement of the amount of damages claimed, with the basis therefor, and the method of determination. The original and three copies shall be furnished for filing, and service on the respondent. If there is more than one respondent, a further copy shall be furnished for each additional respondent.

(b) *Bond Required if Complainant is Nonresident.* If formal complaint for reparation is filed by a nonresident of the United States, complainant shall first file a bond in double the amount of the claim either with a surety company approved by the Treasury Department of the United States as surety or with two personal sureties, each of whom shall be a citizen of the United States and shall qualify as financially